

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

SAL SPECTRUM, LLC)	File No. 0007557048
)	WT Docket No. 16-392
For Extension of Coverage Showing Deadline for)	
700 MHz Lower B-Block Authorization, Call Sign)	
WQJQ812, CMA 652 (Texas RSA No. 1))	

To: Chief, Wireless Telecommunications Bureau

COMMENTS OF SAL SPECTRUM, LLC

SAL Spectrum, LLC, a wholly-owned subsidiary of ATN International, Inc. (collectively, “ATN”), by its attorney and pursuant to the Commission’s Public Notice, DA 16-1301, released November 18, 2016 (“*Request for Comments Notice*”), hereby submits its Comments in support of the above-captioned request for an extension of time. In addition, ATN presents an alternative request for relief, in the event the Commission decides it cannot grant the existing request in full.

BACKGROUND

ATN that specializes in providing wireless services, domestically and internationally, to rural, remote, and insular areas, undeveloped areas, and other areas which are otherwise either unserved or severely underserved. The ATN family of companies has thus launched service in places such as remote Tribal Lands, national parks and forests, remote and poverty-stricken islands, and developing countries in urgent need of advanced wireless services. Often, these wireless services are launched in cooperation or partnership with local populations, employing local residents as well as providing them with wireless services, including 911 services, which were unavailable to those communities until ATN appeared. As a partial list of examples, ATN

companies serve the Navajo Nation,¹ and the Hopi, Picuris, San Carlos Apache, Mescalero Apache, Tohono O’odham and Northern Cheyenne Reservations, Death Valley National Park, the Sonoran Desert, the US Virgin Islands, and the nation of Guyana (second poorest nation in the Western Hemisphere after Haiti).

ATN companies won six lower 700 MHz licenses in the Commission’s Auction 73, of which call sign WQJQ812 is one.² Of those six licenses, ATN has timely met the interim construction benchmark for all except this WQJQ812 license.³ This is so, even though each of these six licenses is for a remote and rural area, with limited access, and severe restrictions on land available for tower locations.

OBSTACLES ATN HAS FACED IN CONSTRUCTING

ATN has encountered significant additional environmental constraints which do not exist in more urban areas. The problems encountered in timely constructing WQIZ530 and WQJQ811 are illustrative. ATN initially designed its 700 MHz system for these two Nevada areas with an anchor location on Mount Tenabo, where ATN obtained reasonable assurance from the existing tower owner. Mount Tenabo would have provided optimum coverage due to its height, location, and ease of construction due to existing facilities. However, ATN then learned from the Bureau

¹ Service on the Navajo Nation is provided via NTUA Wireless, LLC (“NTUA Wireless”), an entity owned 49% and managed by an ATN subsidiary. The other 51% of NTUA Wireless is owned by the Navajo Tribal Utility Authority, an enterprise of the Navajo Nation government.

² The other five are: call signs WQJQ808, WQJQ809, WQJQ810 and WQJQ811, held by Licensee, and WQIZ530, held by its sister company, Commnet of Nevada, LLC (these other five, collectively, the “Constructed Licenses”).

³ Service was launched in the Tribal areas of call signs WQJQ808, WQJQ809 and WQJQ810 back in June, 2012, and the Commission notified at that time. ATN filed its interim construction benchmark showings respecting WQIZ530, WQJQ810 and WQJQ811. However, the underlying construction and service for all of the Constructed Licenses is already complete to meet the interim construction benchmark of 35% in each individual license area, and the notifications for each of WQJQ808 and WQJQ809 will be filed timely.

of Land Management (“BLM”) that the existing tower on Mount Tenabo had been constructed unlawfully, that BLM was moving to have the tower dismantled, and that for Tribal cultural reasons, there is an absolute ban on permanent tower construction on Mount Tenabo.

ATN then attempted to re-design the network, and determined that if it could place cell sites at both Horse Canyon and Bald Mountain, it could replicate the coverage that Mount Tenabo would have provided. As with Mount Tenabo (and virtually all potential locations in those markets), the site owner at Horse Canyon and Bald Mountain is BLM. In November, 2013, BLM provided ATN with reasonable assurance of site availability for both new locations, but asked if ATN could collocate with an existing U.S. Navy tower at Bald Mountain, if the Navy would concur.

The Navy did not concur, and insisted on reviewing ATN’s plans for a nearby tower to ensure that ATN’s proposed new tower at Bald Mountain would not cause harmful interference to Navy operations. The Navy objected to ATN’s initial design, and in July, 2014, ATN presented the Navy with its re-design. However, the Navy did not approve this re-design until February, 2015. Meanwhile, due to BLM budget constraints, ATN was unable even to commence the Environmental Assessment (“EA”) process until November, 2014, when BLM, using its new fiscal 2015 appropriations funding, was able to schedule an initial meeting on the subject. ATN promptly initiated and completed the SHPO/THPO process, and received no objections to its Bald Mountain proposal.

Just as the parties were finalizing matters to enable construction, BLM notified ATN (in May, 2015) that a BLM staff person had happened upon a document from 1996 which stated that all tower construction on Bald Mountain is prohibited (apparently the Navy tower was grandfathered). BLM then withdrew its reasonable assurance.

BLM identified a potential replacement for Bald Mountain at Tonkin, NV, but this location is near three nesting sites for the sage grouse, an endangered species. From June, 2015 until mid-2016, ATN worked diligently to confirm that it could locate a cell at Tonkin without harming the sage grouse, and in the summer of 2016, such environmental clearance was received and the cell site immediately constructed.

But these travails are not unique to call signs WQIZ530 and WQJQ811 – ATN encountered similar obstacles for all of its 700 MHz licenses. Indeed, each of call signs WQJQ808, WQJQ809 and WQJQ810 contains large swaths of Tribal areas, where there are numerous constraints on tower location, due to archaeological and cultural concerns. As a result, ATN’s limited personnel resources were stretched to the breaking point.

WHY A WAIVER/EXTENSION IS APPROPRIATE

ATN has devoted substantial resources to completing its construction/coverage obligations for its 700 MHz licenses on a timely basis, overcoming major environmental hurdles resulting in the loss of multiple superior site locations (and concomitant need to construct more cell sites than otherwise would have been needed), as noted above. Insofar as the requested extension of time is concerned, the involved license area, CMA 652, Texas RSA No. 1 (“TX-1”), represents a significant challenge, due to its remote location. TX-1 is in the far northwest corner of the Texas Panhandle, bordered on the north by the Oklahoma Panhandle, and on the west by rural New Mexico. It is far from the ATN 700 MHz switching facilities in Castle Rock, Colorado, and backhaul therefore presents an additional challenge.

Nevertheless, Licensee is confident that if the instant request for waiver/extension is granted, Licensee could complete construction (including appropriate backhaul) to enable

coverage of at least 35% of the relevant license area (*i.e.*, not including uncovered government land, as defined in Section 27.14 of the Rules) by the extended deadline of June 13, 2017.

Also, at the time the Commission originally established Section 27.14 of the Rules, the interim 35% coverage requirement was going to be at the five-year mark, meaning that if a licensee missed that interim deadline, that licensee would still have three full years (until the eight-year anniversary of license grant), within which to achieve the final 75% coverage threshold. Through no fault of ATN or other rural auction winners, however, the difficulties surrounding the interoperability of 700 MHz handsets delayed the initial build-out of 700 MHz licenses. As a result, the Commission's intended three-year catch-up period has now been compressed into only six months.

In the context of rural and remote areas such as Texas RSA No. 1, six months is not a rational catch-up period; it is too short to possibly meet. Indeed, that short timeframe actually undermines the Commission's intended purpose of incentivizing licensees to expedite construction during the catch-up period. A licensee has no incentive to expedite construction if meeting the deadline is impossible, as is the case with only a six-month catch-up window. Accordingly, the waiver and extension herein requested are reasonable.

ALTERNATIVE RELIEF

If, *arguendo*, the Commission decides it is inappropriate to grant ATN's requested relief in full, then, as an alternative, ATN herein requests that it receive at least a six-month extension to meet the 75% coverage threshold, to and including December 13, 2017. (As part of such alternative relief, ATN's initial license period would be shortened to December 13, 2017, rather than June 13, 2017.) ATN is not 100% certain it could meet such an alternative deadline, but ATN would certainly devote the resources to doing so; at least, having one year instead of only

six months would give ATN a reasonable chance and would provide the incentive to make the effort.

CONCLUSION

The Commission should grant ATN an extension of its deadline for meeting the interim benchmark of 35% coverage to and including June 13, 2017 with respect to call sign WQJQ812; and provide that ATN's license term for that license *remain* June 13, 2019, so long as it meets the interim benchmark by the extended date of June 13, 2017. Alternatively, at minimum, the Commission should grant ATN an extension of its deadline for meeting the 75% coverage threshold, and an extension of its initial license term, to and including December 13, 2017.

Respectfully submitted,
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